Docket No.
RM515

Declaration and Power of Attorney For Patent Application

English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Articulating, Adjustable Resistance Suspension Seat

the specification of which

☒ is attached hereto.

☐ was filed on ______________ as United States Application No. or PCT International Application Number ______________ and was amended on ______________ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			Priority Not Claimed
N/A (Number)	(Country)	(Day/Month/Year Filed)	☐
(Number)	(Country)	(Day/Month/Year Filed)	☐
(Number)	(Country)	(Day/Month/Year Filed)	☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional

N/A	
(Application Serial No.)	(Filing Date)
(Application Serial No.)	(Filing Date)
(Application Serial No.)	(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

N/A		
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

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Full name of second inventor, if any	
Second inventor's signature	Date
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Citizenship	
Post Office Address	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Nuzzarello, Joseph		
Serial No.:		Group Art Unit:	
Filed:		Examiner	
For:	Articulating, Adjustable Resistance Suspension Seat	Attorney Docket	RM515a

Mail Stop Patent Application
Commissioner for Patents
Alexandria, VA 22313-1450

DESIGNATION OF APPLICATION AS CONTINUATION APPLICATION UNDER 37 CFR 1.53(b) OR ALTERNATIVELY, AS CONTINUATION-IN-PART APPLICATION UNDER 37 CFR 1.53(b)

Dear Sir:

In response to a final Office Action mailed June 10, 2003, Applicant submits this continuation application under 37 CFR 1.53(b) which claims the benefit of the co-pending parent application 10/004,040 filed on October 31, 2001 titled "Articulating, Adjustable Resistance Suspension Seat."

An applicant may file a continuation application under 35 U.S.C. 111(a) by providing a new specification and drawings and a copy of the signed oath or declaration as filed in the prior application provided that the new specification and drawings do not contain any subject matter that would have been new matter in the prior application. Therefore, please find a new specification, drawings, and a copy of the signed declaration as filed in the prior application. Applicant believes that no new matter has been added because the pivot mount and separation adjustment means of Applicant's seat mounting assembly (the basis of the prior Examiner's new matter rejections) were in Applicant's original disclosure. See Fig. 3C and Remarks Section below; see also page 12, lines 7-11 of the disclosure, as well as page 12, line 23 through page 13, line 4.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail EL558244291US in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, Alexandria, VA 22313-1450 on: 10/10/03.

Krista Caggiano

Krista Caggiano

If, however, the Examiner takes the position that the pivot mount and separation adjustment means of Applicant's seat mounting assembly are indeed new matter, Applicant respectfully requests the Examiner to make an Examiner's Amendment finding that this application is a continuation-in-part application under 37 CFR 1.53(b) which claims the benefit of the co-pending application 10/004,040 filed on October 31, 2001 titled "Articulating, Adjustable Resistance Suspension Seat."

In the prior application, Applicant was required to elect claims directed to Species I (Figs. 3A, 3B, 3C), Species II (Figs. 4, 5A, 5B, 5C), or Species III (Figs. 6 and 7). Applicant elected Species I and argued that Figs. 1, 2A and 2B are general and should remain a part of the application. If the Examiner in the subject application requires a similar election, Applicant elects the invention shown in Figs. 3A, 3B, 3C along with Figs. 1, 2A, and 2B.

REMARKS

First, Applicant would like to take this opportunity to explain why it believes that the specification supports a "pivot mount" and a "separation adjustment means."

In original Fig. 3C, Applicant illustratively shows that the spring resistance of spring mechanism **33** opposes the downward movement of the seat **34,** which h thereby causes seat **34** to pivot in the direction of arc **43,** or in a forward or rearward manner. In addition, Figs. 3A through 3C show bracket support **46** being pivotally mounted on support bar **36.** When knob **31** is rotated, thereby causing compression or decompression of spring mechanism **32,** the resistance exerted against a downward seat force is thus increased or lessened, respectively. Seat **34,** which is attached to bracket support **46** by means of seat attach bracket **44,** pivots in the direction of arc **43** when bracket support **46** itself pivots along the horizontal axis of support bar **36.** Thus, the original specification clearly supports the claimed pivot mount.

On page 12, lines 7-11 of the disclosure, Applicant teaches that the left spring mechanism **33** and left seat **34** are positioned along shaft **48** at a desired distance from T-section **36a** of support bar **36** "by means of a left spring stop bracket **38** which can be held in place with the left *separation adjustment set screw* **42**." [Emphasis added.] The quoted text has not been amended from the original disclosure. In addition, on page 12, line 23 through page 13, line 4, Applicant teaches that the right spring mechanism **32** and right seat **35** are positioned along shaft **47** at a desired distance from T-section **36a** of support bar **36** "by means of a right spring stop bracket **37** which can be held in place with the right *separation adjustment set screw* **41**." [Emphasis added.] Again, the quoted text has not been amended from the original disclosure. Furthermore, the separation adjustment means are shown in Figs. 3A and 3B of Applicant's original disclosure. Thus, the original specification clearly supports the claimed separation adjustment means.

Next, Applicant would like to explain why it believes that U.S. Pat. No. 604,347 to Bray, which was cited by the prior Examiner, does not anticipate the present invention.

Bray `347 discloses a bicycle seat mounted on a horizontal hollow T-bar 8 through which a cross bar 9 passes. Cross bar 9 is secured in head 8 by means of a set screw 10. Cross bar 9 is mounted through an opening (which is not numbered but appears kidney-shaped) which passes through each side of a pair of upright sides 12 on carrier 11. Set screw 15 passes through the bottom of carrier 11 and holds carrier 11 in place on cross bar 9. Spring 26 is mounted on cross bar 9 between each side 12 of carrier 11, such that the free ends engage pin 22 while the spring middle rests at the bottom of carrier 11. It is unclear whether spring 26 wraps around cross bar 9 as it engages pin 22, however, Bray clearly teaches that the spring serves to hold the bicycle seat half in a near horizontal position. Bray's seat is directly mounted to carrier 11 by means of spring 26 and pin 22 and may be moved forward and rearward by positioning cross bar 9 at different locations through the kidney-shaped opening of carrier 11. In addition, Bray's seat halves may be moved horizontally along T-bar 8 such that they are positioned closer to or further from one another. Set screw 15 must be engaged and disengaged to reposition the carrier 11 relative to cross bar 9.

In the present case, Applicant claims a seat mounting assembly suited to mount on a T-shaped support bar for attachment to a bicycle; a left and a right seat member, each member having a forward/rearward pivot mount assembly means as part of the seat mounting assembly wherein the forward/rearward pivot mount assembly means functions to provide a spring biased pivot axis for each seat member on the T-shaped support bar; and wherein each forward/rearward pivot mount assembly means has an independently adjustable spring, thereby resisting a rider's downward force on the respective seat member. Thus, the seat member 34, 35 pivots forward and rearward in an up and down fashion. The seat members 34, 35 may also be may be moved horizontally along support bar 36 such that each seat can be positioned closer to or further from one another.

The prior Examiner took the position that Applicant's adjustable spring mechanism 32, 33 is analogous to Bray's spring 16. Applicant's adjustable spring mechanism is different from the spring of Bray in a structural and operational sense. The free ends of Bray's spring 26 engage pin 22 on plates 20, 21 of the saddle while the spring middle rests at the bottom of carrier 11. Bray's saddle pivots by means of the spring, which stretches and compresses as the saddle pivots up and down. The spring tension is fixed. There is no mechanism to adjust the tension of spring 26. Applicant's seat, on the other hand, pivots by means of the bracket support 46. Applicant's spring mechanism 32, 33, is used to adjust the seat force exerted on the rider; it is not used to pivot the seat. When, however, the pivot does occur, it occurs with greater or less tension. Mechanism 32, 33 may be compressed or decompressed by merely rotating knob 31, thereby causing the spring to contract/expand along the horizontal member of support bar 36. The tension of Bray's *spring* is simply not adjustable.

There are other differences between Bray and the present invention. Bray's T-bar 8 must be secured to cross bar 9 by means of a set screw 10 wherein cross bar 9 may slide horizontally though head 8. The present invention uses a T-shaped support bar wherein horizontal member 36b and head 36a have a one-piece construction. The seat of the present invention is mounted on a seat attach bracket which is joined to a bracket support, whereas Bray's seat is directly mounted to carrier 11 by means of spring 26 and pin 22. The present invention utilizes an adjustable stop bracket to allow the rider to adjust the distance between the left and right seat members without allowing the spring to directly abut the head of the support bar and potentially cause injury to a rider during the adjustment of the spring mechanism. In addition, the present invention has an easily accessible adjustment knob; Bray does not. The present invention has padded seats, which can be round or oval to support the ischial tuberosities, whereas Bray's standard saddle-shaped seat combines a wire frame with a leather covering and extends support outward from the ischial tuberosities. Bray's *saddle* may be adjusted forward and backward by relocating cross bar 9 which passes through the kidney shaped opening of carrier 11 at a more forward or more rearward position. The seat of the present invention does not allow for a forward and backward adjustment of its seat members.

It is Applicant's position that Bray `347 does not anticipate Applicant's invention because the reference does not disclose, among other things, a spring mechanism wherein the tension of the spring is adjustable.

In anticipation of a potential §103 rejection, Applicant argues that there is no suggestion or motivation in Bray `347 or the other cited references which, either alone or in combination with, teach Applicant's claimed invention. And even if there was some suggestion or motivation, there must also be a reasonable expectation of success. Bray's patent issued on May 17, 1898. In over 105 years, it appears that no one having ordinary skill in the art has found it obvious to modify what is taught in Bray to make Applicant's adjustable resistance suspension seat. Furthermore, no one has found it obvious to modify Bray to make Applicant's easily accessible adjustment knob and add padded seats. Thus, it is Applicant's position that the present invention is nonobvious.

Applicant respectfully requests the Examiner to pass this application to allowance.

Respectfully Submitted,

Aileen Law

Date: 10/10/2003

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